



STATE MINING AND GEOLOGY BOARD

EXECUTIVE OFFICER'S REPORT



ARNOLD
SCHWARZENEGGER
GOVERNOR

For Meeting Date: April 9, 2009

Agenda Item No. 7: Acceptance of the Annual Fee Schedule for Mines Subject to the Surface Mining and Reclamation Act (SMARA; Public Resources Code Sections 2710 et seq. and 2207).

INTRODUCTION: Public Resources Code (PRC) Section 2207(d) requires the State Mining and Geology Board (SMGB) to impose by regulation an annual reporting fee on each active and idle surface mining operation. Active and idle surface mining operations are defined in PRC Sections 2207(f), 2714, 2727.1, 2735, and Title 14 California Code of Regulations (CCR) Section 3501, and include operations conducted by public agencies. PRC Section 2207(d) also states the annual fee imposed shall not be less than \$100 or more than \$4,000 for each operation. These amounts shall be adjusted for cost of living as measured by the California Consumer Price Index.

REGULATORY AUTHORITY: PRC Section 2207(d)(2)(A) requires a reporting fee schedule to be established on an equitable basis reflecting the size and type of the operation. The SMGB must consider: total assessed value of the operation, total acreage disturbed, and acreage subject to the reclamation plan. The SMGB is not restricted from considering other issues such as mineral production.

PRC Section 2207(d)(3) outlines the amount of revenue to be generated by the fee schedule. The fee schedule must provide for the collection of the amount specified in the Governor's Budget for the Department of Conservation's (Department) costs in implementing PRC Sections 2207 and SMARA. The total revenue generated by the reporting fees shall not exceed, and may be less than, \$3,500,000. This amount shall be adjusted for the cost of living beginning with the 2005-2006 Fiscal Year (FY) and annually thereafter. Further, if the Director of the Department determines that the revenue collected in the preceding FY was greater or less than the cost to implement SMARA and PRC Section 2207, the SMGB shall adjust the fees to compensate for the overcollection or undercollection of revenues.

PRC Section 2207(d)(4) requires the reporting fees to be deposited in the Mine Reclamation Account to be used to carry out the provisions of SMARA and PRC Section 2207. In addition, this subdivision provides for additional reporting fees on gold and silver production, which are to be collected by the SMGB and deposited into a special Abandoned Mine Reclamation and Minerals Fund Subaccount. Monies in this Subaccount may only be used to implement SMARA Sections 2796.5 and 2797, and used to remediate or complete remediation of abandoned mined lands.



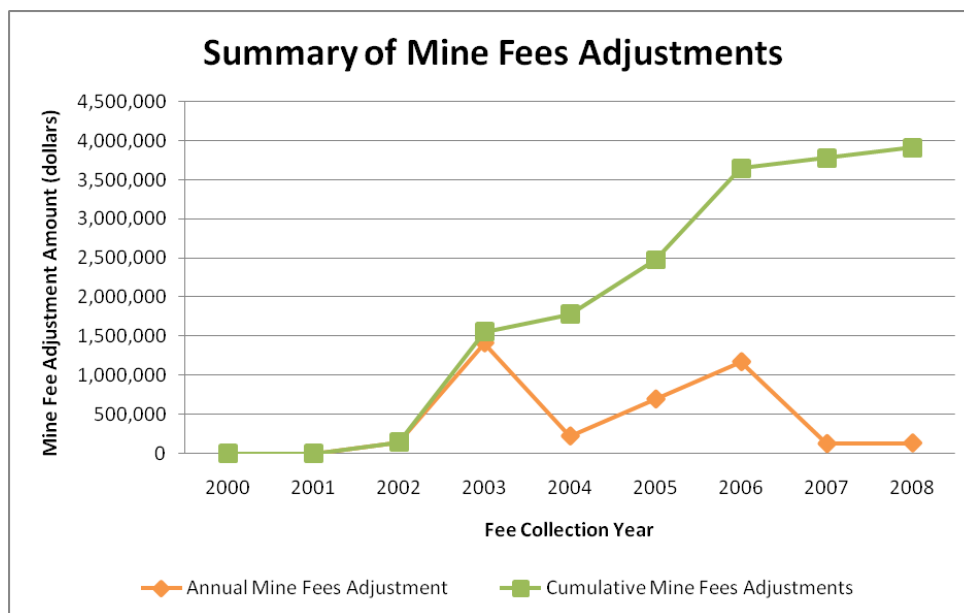
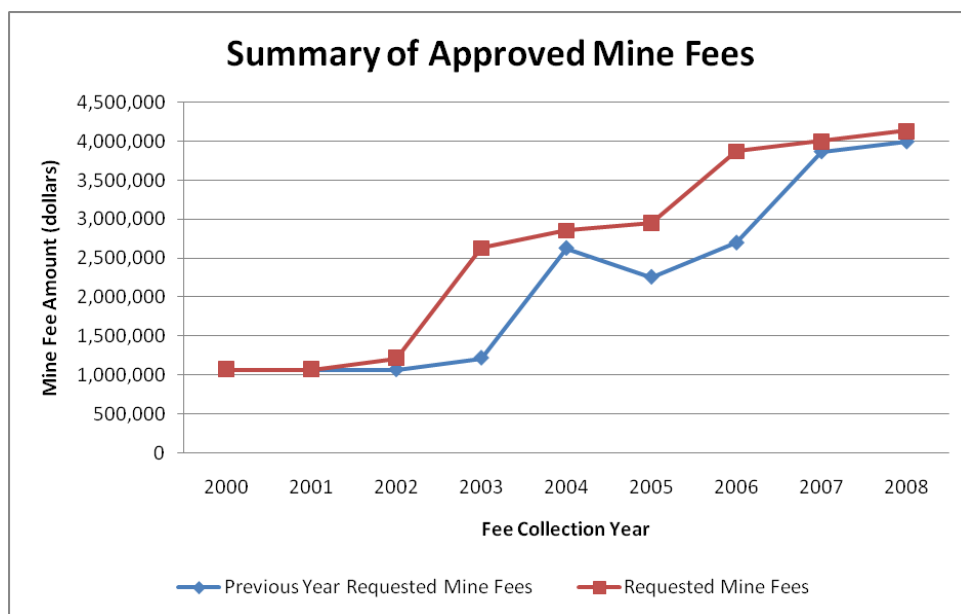
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PRC Section 2207(d)(5) authorizes the assessment of a penalty on surface mining operations for late payment of annual reporting fees. It also requires new mining operations to submit an annual reporting fee according to the fee schedule adopted by the SMGB. A summary of approved mine fees and adjustments from 2000 to 2008 are graphically shown below:



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DISCUSSION: The attached **Calculation Sheet** demonstrates how the calculations are made pursuant to CCR Title 14, Section 3698. Also attached are the **2008 Annual Mine Reporting Fee Calculated Tables** showing the 2008 fees. These tables were generated using the formula contained in the regulation, based on the Requested Revenue Amount and Adjusted Total Amount supplied by the Department of Conservation. The Adjusted Amounts are reflective of the number of mines actually reporting and those estimated to report in each of the listed categories. Comparison of 2007 annual mine reporting fees approved by the SMGB, indicate that such fees were increased subsequent to approval by the SMGB at its regular business meeting held on March 13, 2008. The adjustments were not made in accordance with PRC Section 2207(d)(3), or otherwise approved by the SMGB.

The amount requested by the Department of Conservation for Calendar Reporting Year 2008 is \$4,132,668; this amount represents an increase of \$135,890 over the amount requested for Calendar Reporting Year 2007. Estimating the funds to be collected in Calendar Year 2007 from set fees described in CCR Sections 3698 and 3699 to be \$2,941,575, the amount of fees to be collected for the 2008 Calendar Reporting Year is \$3,063,920 [AT_{RY}]. These figures include a Cost of Living Adjustment (COLA) of 3.40 percent as taken from the California Consumer Price Index for 2008. The result is that there will be an increase in fees in the mine categories listed in CCR Section 3698 for the 2008 Calendar Reporting Year.

Following is a comparison of the values described in CCR Section 3698 that affect the Adjusted Total (AT):

Actual Calendar Year 2007			Projected Calendar Year 2008		
Type	No. of Mines	Fees Paid	Est. No. Mines	Est. Amt. Collected	Sub-Section
Low Gross	85	\$38,421	85	\$39,695	§3699
Multi-site	35	\$158,340	35	\$163,660	§3698(a)
In Reclamation	161	\$18,193	161	\$18,837	§3698(b)
At "Cap"	605	\$2,714,296	605	\$2,508,792	§3698(c)
Initial Reports	19	\$9,500	19	\$9,823	§3698(d)
Newly Permitted	43	\$4,859	43	\$5,031	§3698(e)
TOTAL	948	\$2,943,609	948	\$2,745,838	

Therefore: AT_{PY(2007)} = \$3,996,778 - \$2,943,609 = \$1,053,169

Therefore: AT_{RY(2008)} = \$4,132,668 - \$2,745,838 = \$1,386,830

CPI = 3.40%



RECOMMENDED MOTION:

To accept the Annual Fee Schedule:

Mr. Chairman, in light of the information before the State Mining and Geology Board today, I move that the Board accept the Annual Fee Schedule, which was calculated pursuant to Title 14 CCR Article 8, Section 3698, for all surface mines subject to SMARA.

Respectfully submitted:

Stephen M. Testa
Executive Officer

